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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELIEL URRUTIA JIMENEZ,

Defendant.

Case No. 2:20-mj-00199-VCF

**ORDER TO CONTINUE
PRELIMINARY HEARING**

(Second Request)

The government and counsel for Defendant, jointly stipulate and request that the preliminary hearing in this matter, currently set for July 30, 2020 be vacated and continued to a date and time convenient to the Court, but no sooner than ninety (90) days.

This Stipulation is entered into for the following reasons:

1. On March 16, 2020, the Chief Judge of the U.S. District Court for the District of Nevada issued Temporary General order 2020-03 (the "General Order").¹ The Order explains that, due to the outbreak of the coronavirus 2019 ("COVID-2019") in the District of Nevada, the declaration by the Governor of the State of Nevada of a public health emergency due to the spread of COVID-19 in Nevada, the declaration of local emergencies

¹ The Court amended the General Order on April 9, 2020.

1 by local governments due to COVID-19, and the public health recommendations—
2 including recommendations for social distancing and limiting large-group gatherings—the
3 Court has sustained a “reduced ability to obtain an adequate spectrum of jurors” and
4 reduced availability of counsel and Court staff. There is currently no definitive grand jury
5 date currently scheduled.

6 2. Federal Rule of Criminal Procedure 5.1(d) allow for the continuance of a preliminary
7 hearing with a defendant’s consent and a showing of good cause.

8 3. Continuing this deadline will serve the critical interests emphasized in the General
9 Order. Given the grave public-health concerns discussed in the General Order, the ends of
10 justice served by the requested continuance in this case outweigh the best interest of the
11 public and defendant in a speedy preliminary hearing. Good cause therefore exists to
12 continue the preliminary hearing. Further, the additional time requested by this Motion is
13 excludable in computing the time within which the government must indict the defendant
14 pursuant to the Speedy Trial Act, 18 U.S.C. 3161(b) and (h)(7)(B)(iii).

15 4. The defendant is in custody and agrees to the continuance.

16 5. The additional time requested herein is not sought for purposes of delay, but merely
17 to allow counsel for defendant sufficient time within which to be able to effectively and
18 complete investigation of the discovery materials provided and prepare for the preliminary
19 hearing.

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1 6. Additionally, denial of this request for continuance could result in a miscarriage of
2 justice.

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4 Respectfully submitted,
5 NICHOLAS TRUTANICH
United States Attorney

6 /s/ Rachel Kent
7 RACHEL KENT
Special Assistant United States Attorney

8 /s/ Thomas Boley
9 THOMAS BOLEY
10 Counsel for Defendant
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UNITED STATES DISTRICT COURT
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**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER**

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. On March 16, 2020, the Chief Judge of the U.S. District Court for the District of Nevada issued Temporary General order 2020-03 (the “General Order”).² The Order explains that, due to the outbreak of the coronavirus 2019 (“COVID-2019”) in the District of Nevada, the declaration by the Governor of the State of Nevada of a public health emergency due to the spread of COVID-19 in Nevada, the declaration of local emergencies by local governments due to COVID-19, and the public health recommendations—including recommendations for social distancing and limiting large-group gatherings—the Court has sustained a “reduced ability to obtain an adequate spectrum of jurors” and reduced availability of counsel and Court staff. There is currently no definitive grand jury date currently scheduled.

2. Federal Rule of Criminal Procedure 5.1(d) allow for the continuance of a preliminary hearing with a defendant’s consent and a showing of good cause.

² The Court amended the General Order on April 9, 2020.

1 3. Continuing this deadline will serve the critical interests emphasized in the General
2 Order. Given the grave public-health concerns discussed in the General Order, the ends of
3 justice served by the requested continuance in this case outweigh the best interest of the
4 public and defendant in a speedy preliminary hearing. Good cause therefore exists to
5 continue the preliminary hearing. Further, the additional time requested by this Motion is
6 excludable in computing the time within which the government must indict the defendant
7 pursuant to the Speedy Trial Act, 18 U.S.C. 3161(b) and (h)(7)(B)(iii).

8 4. The defendant is in custody and agrees to the continuance.

9 5. The additional time requested herein is not sought for purposes of delay, but merely
10 to allow counsel for defendant sufficient time within which to be able to effectively and
11 complete investigation of the discovery materials provided and prepare for the preliminary
12 hearing.

13 6. Additionally, denial of this request for continuance could result in a miscarriage of
14 justice.
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16 **CONCLUSIONS OF LAW**

17 Good cause exists, and the ends of justice served by granting said continuance
18 outweigh the best interest of the public and the defendant in a preliminary hearing, since the
19 failure to grant said continuance would be likely to result in a miscarriage of justice, would
20 deny the parties herein sufficient time and the opportunity within which to be able to
21 effectively and thoroughly prepare for the preliminary hearing, taking into the account the
22 exercise of due diligence.
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1 The continuance sought herein is excludable as to the government's time to indict
2 under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when
3 consider the facts under Title 18, United States Code, § 3161(h)(7)(B)(iii).

ORDER

IT IS THEREFORE ORDERED that the preliminary hearing scheduled for July 30, 2020, be vacated and continued to November 9, 2020 at 4:00 PM in LV courtroom 3D before Magistrate Judge Cam Ferenbach

DATED this 29 day of July, 2020.



THE HONORABLE CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE